

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Barry O'Brien et al.
Patent No. : 7,488,343
Issue Date : February 10, 2009
Serial No. : 10/664,679
Filed : September 16, 2003
Title : MEDICAL DEVICES

Art Unit : 3734
Examiner : Vi X Nguyen
Conf. No. : 4092

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT

In a Decision on Request For Reconsideration of Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction ("Decision") dated March 16, 2010, the United States Patent and Trademark Office ("Office") granted, in part, Patentees' request for a correction of the Patent Term Adjustment ("PTA") for the above patent. The Office agreed with Patentees' assertion that the patent was not accorded enough "B Delay;" however, Patentees respectfully disagree with the Office's total calculation of 1083 days of PTA.

In particular, Patentees submit that the Office's PTA calculation relies on an incorrect date: the Decision suggests that a Request for Continued Examination ("RCE") was filed on October 30, 2007, when it states that "the over three year period begins on September 16, 2006 and ends on October 29, 2007, the day before the RCE was filed..." (Decision at page 1). A review of the online image file wrapper available in the PAIR/PALM system indicates that the RCE was actually filed on October 31, 2007. Patentees' records are consistent with date indicated in the online image file wrapper.

As such, Patentees respectfully request reconsideration of the total PTA calculation to reflect a total PTA calculation of 1084 days, which accounts for a period of "B Delay" that spans from September 16, 2006, to October 30, 2007 (the day before the RCE was filed).

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: October 29, 2009

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Attorney's Docket No.: 10527-0462001 / 02-253

No fee is believed due; however, if any fee is due, please charge it to Deposit Account No. 06-1050, referencing Attorney Docket Number 10527-0462001.

Respectfully submitted,

Date: April 16, 2010

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